

Personal testimony submitted for CTPC's consideration, Nov 2014 Farmington public hearing by Martha Spiess, in two parts.

My name is Martha Spiess and I am a licensed veterinarian in the state of Maine. This makes me concerned about both climate change policy and public health policy- and potential impact upon them by the new free trade agreements under negotiation. The CTPC is a very unique commission and has the capacity for personalizing the trade agreements for Mainers, interpreting them into more understandable language. So I ask for clarity from the commission about these 2 issues- as a citizen and as a public health representative.

Part 1. Climate Change

Questions for the Citizen Trade Policy Commission:

Is there a way to assure policy space for Maine legislation crafted to mitigate global warming?

Can the Citizen Trade Policy Commission conduct a rigorous public assessment of the impact of trade treaty rules on climate initiatives?-is RGGI safe, for instance?

References:

1. Maine Fair Trade Campaign's "Trade Treaty Rules and Climate Change Initiatives"
<http://policyspacemaine.org/pdf/MFTCglobalwarmingdraft.pdf>
2. Scott Sinclair's "Keeping Green Energy Local and Public"
<http://www.thespec.com/opinion-story/4276197-keeping-green-energy-local-and-public/>
3. Scott Sinclair's Report on Fisheries-(warming temperatures are already impacting Industry)
<http://www.policyalternatives.ca/publications/reports/globalization-trade-treaties-and-future-atlantic-canadian-fisheries>

Part 2. Health

Question for the Citizen Trade Policy Commission:

Is there a way that the Commission can meet with Maine's American Lung Association Chapter to help it understand potential impact upon Maine if tobacco is not carved out of trade agreements?(of note that the US ban on clove cigarettes was ruled discriminatory)

References:

1. US-Indonesian memorandum of understanding released Nov 2014(attached Nov 20, 2014)
2. CPATH's clarification of MOU Nov 14¹
3. Submission of a recent update from CPATH regarding tobacco policy
[Leaked texts](#) reveal that other U.S. proposals for the TPP would jeopardize global access to affordable medicines, require that countries allow patents for surgical methods, place restraints on public health insurance programs, and subject government formularies and reimbursement programs to greater interference from pharmaceutical companies. The Administration has announced plans to ask Congress for Fast Track authority. If the TPP is concluded, Fast Track rules would prevent Congress from making any changes - they could only vote Yes or No. A number of [prominent members of Congress oppose Fast Track](#). "We must restore democratic practice and principles of economic and social sustainability to the trade negotiations process," said CPATH Co-Director Joseph E. Brenner. "We need a 21st century trade agreement. Carving out tobacco could signal the dawn of that century."

¹*Clove cigarette statement demonstrates importance of tobacco carve-out Nov, 21 2014*

The Memorandum of Understanding on the US-Indonesia clove cigarette ban (attached here) describes the settlement reached on Oct. 3, 2014, by the U.S. and Indonesia regarding the U.S. ban on clove cigarettes. The terms of this settlement are a clear reminder that tobacco control rules should not be hamstrung by trade rules.

The U.S. ban on flavored cigarettes, including clove cigarettes, was first enacted in 2009, through Section 907(a)(1)(A) of the federal Food, Drug and Cosmetic Act. Indonesia issued a challenge through the WTO in 2010. In 2012, a WTO dispute panel upheld Indonesia's claim that the U.S. violated the global trade rule of National Treatment, and discriminated against Indonesia, the leading producer of clove cigarettes, because it did not also ban the "like" product of menthol cigarettes produced in the U.S. The panel rejected Indonesia's claim that the ban was an unnecessary restriction on trade, crediting evidence that banning flavored cigarettes could help to reduce youth smoking.

The details of this MOU, achieved 5 years after the enactment of the original law, 4 years after the WTO dispute was filed, and 2 years after the dispute panel's ruling, reveal that:

- 1. The final agreement was achieved based in part on horse-trading on other issues of economic concern to both countries, specifically: insulated ignition wiring sets for vehicles, mineral ore export restraints, and intellectual property rights.*
- 2. With regard to pending rulemaking regarding the deeming of additional tobacco products, the U.S. agrees it will not "arbitrarily or unjustifiably discriminate against cigars or cigarillos (HS 2402.20) from Indonesia." Noting that the original dispute panel found in 2012 that the clove cigarette ban did in fact discriminate against Indonesia, the implications for future such rules are unclear.*

Subject to these conditions, and after 5 years of legal wrangling, the U.S. has been able to assert its wealth and power to extract Indonesia's agreement to drop its complaint on the clove cigarette ban.

Meanwhile, expensive and time-consuming trade charges against plain packaging are proceeding against Uruguay and Australia, at both the bilateral and WTO levels, despite the unequivocal evidence of their effectiveness in suppressing tobacco use. Youth smoking rates in Uruguay, for example, dropped from 33% to 12% among teenagers, and from 40% to 23% among adults, following the changes in packaging.

Tobacco control is a public health issue. It must be carved out from trade agreements. <http://www.cpath.org/> statement issued by Ellen Shaffer, PhD Nov 21, 2014,cc